



GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 "Regulatory Planning and Review." This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street, N.W., 2nd Floor, Washington, DC 20405-0001, 202-501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the Federal Register and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR Web site at <http://www.acquisition.gov/far>.

Dated: September 28, 2022.

William F. Clark,

Director, Office of Government-wide Acquisition Policy,

Office of Acquisition Policy, Office of Government-wide Policy.

DOD/GSA/NASA (FAR)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
457	Federal Acquisition Regulation (FAR); FAR Case 2017-016, Controlled Unclassified Information (CUI)	9000-AN56
458	Federal Acquisition Regulation (FAR); FAR Case 2018-014, Increasing Task-Order Level Competition	9000-AN73
459	Federal Acquisition Regulation (FAR); FAR Case 2019-015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment	9000-AN98
460	Federal Acquisition Regulation (FAR); FAR Case 2019-018, Federal Acquisition Supply Chain Security Act of 2018	9000-AO01
461	Federal Acquisition Regulation (FAR); FAR Case 2020-005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts	9000-AO08

462	Federal Acquisition Regulation (FAR); FAR Case 2020-008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer	9000-AO11
463	Federal Acquisition Regulation (FAR); FAR Case 2020-010, Small Business Innovation Research and Technology Transfer Programs	9000-AO12
464	Federal Acquisition Regulation (FAR); FAR Case 2020-016, Rerepresentation of Size and Socioeconomic Status	9000-AO18
465	Federal Acquisition Regulation (FAR); FAR Case 2021-001, Increased Efficiencies With Regard to Certified Mail, In-Person Business, Mail, Notarization, Original Documents, Seals, and Signatures	9000-AO19
466	FAR Acquisition Regulation (FAR); FAR Case 2021-005; Disclosure of Beneficial Owner in Federal Contracting	9000-AO23
467	Federal Acquisition Regulation (FAR); FAR Case 2021-009, Protests of Orders Set Aside for Small Business	9000-AO26
468	Federal Acquisition Regulation (FAR); FAR Case 2021-011, Past Performance Ratings for Small Business Joint Venture Members and Small Business First-Tier Subcontractors	9000-AO28
469	Federal Acquisition Regulation (FAR); FAR Case 2021-012, 8(a) Program	9000-AO29
470	Federal Acquisitions Regulation (FAR); FAR Case 2021-013, Access to Past Performance Information	9000-AO30
471	Federal Acquisition Regulation (FAR); FAR Case 2021-015, Disclosure of Greenhouse Gas Emissions and Climate-Related Financial Risk	9000-AO32
472	Federal Acquisition Regulation (FAR); FAR Case 2021-016, Minimizing the Risk of Climate Change in Federal Acquisitions	9000-AO33
473	Federal Acquisition Regulation (FAR); FAR Case 2021-017, Cyber Threat and Incident Reporting and Information Sharing	9000-AO34

474	Federal Acquisition Regulation (FAR); FAR Case 2021-019, Standardizing Cybersecurity Requirements for Unclassified Information Systems	9000-AO35
475	Federal Acquisition Regulations (FAR) FAR Case 2021-020, Limitations on Subcontracting	9000-AO36
476	Federal Acquisition Regulation (FAR); FAR Case 2022-006, Sustainable Procurement	9000-AO43
477	Federal Acquisition Regulation (FAR); FAR Case 2022-009, Certification of Service-Disabled Veteran-Owned Small Businesses	9000-AO46
478	Federal Acquisition Regulation (FAR); FAR CASE 2023-003, Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services	9000-AO51

DOD/GSA/NASA (FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
479	Federal Acquisition Regulation: FAR Case 2016-005; Effective Communication Between Government and Industry	9000-AN29
480	FAR Acquisition Regulation (FAR); FAR Case 2015-038, Reverse Auction Guidance	9000-AN31
481	Federal Acquisition Regulation (FAR); FAR Case 2017-005, Whistleblower Protection for Contractor Employees	9000-AN32
482	Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 to Encourage Vendor Feedback	9000-AN43
483	Federal Acquisition Regulation (FAR); FAR Case 2018-017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	9000-AN83

484	Federal Acquisition Regulation (FAR); FAR Case 2019-008, Small Business Program Amendments	9000-AN91
485	Federal Acquisition Regulation (FAR); FAR Case 2019-009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment	9000-AN92
486	Federal Acquisition Regulation (FAR); FAR Case 2020-007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns	9000-AO10
487	Federal Acquisition Regulation (FAR); FAR Case 2020-011, Implementation of FASC Exclusion Orders	9000-AO13
488	Federal Acquisition Regulation (FAR); FAR Case 2021-014, Increasing the Minimum Wage for Contractors	9000-AO31
489	Federal Acquisition Regulation (FAR); FAR Case 2022-003, Use of Project Labor Agreement for Federal Construction Projects	9000-AO40
490	Federal Acquisition Regulation (FAR); FAR Case 2022-011, Nondisplacement of Qualified Workers Under Service Contracts	9000-AO48

DOD/GSA/NASA (FAR)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
491	Federal Acquisition Regulation (FAR); FAR Case 2018-006; Definition of Subcontract	9000-AN66
492	Federal Acquisition Regulation (FAR); FAR Case 2018-013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations	9000-AN72

DOD/GSA/NASA (FAR)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
493	Federal Regulation Acquisition (FAR); FAR Case 2017-019, Policy on Joint Ventures	9000-AN59
494	Federal Acquisition Regulation (FAR); FAR Case 2018-020, Construction Contract Administration	9000-AN78
495	Federal Acquisition Regulation (FAR); FAR Case 2019-007, Update of Historically Underutilized Business Zone Program	9000-AN90
496	Federal Acquisition Regulation (FAR); FAR Case 2020-013, Certification of Women-Owned Small Businesses	9000-AO17
497	Federal Acquisition Regulation (FAR); FAR Case 2021-008, Amendments to the FAR Buy American Act Requirements	9000-AO22
498	Federal Acquisition Regulations (FAR); FAR Case 2021-010, Subcontracting to Puerto Rican and Other Small Businesses	9000-AO27

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Proposed Rule Stage

457. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-016, CONTROLLED

UNCLASSIFIED INFORMATION (CUI) [9000-AN56]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010 as implemented in NARA's implementing regulations at 32 CFR 2002, and implement the OMB Memorandum M-17-12, entitled Preparing for and Responding to a Breach of Personally Identifiable Information (PII). This rule will apply the CUI program

requirements in Federal contracts in a uniform manner to protect CUI. This rule is one element of a larger strategy to improve the Government's efforts to identify, deter, protect against, detect and respond to increasing sophisticated threat actions targeting Federal contractors.

Timetable:

Action	Date	FR Cite
Proposed Rule	01/00/23	
NPRM Comment Period	03/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN56

458. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-014, INCREASING TASK-ORDER LEVEL COMPETITION [9000-AN73]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the John S. McCain National Defense Authorization Act for fiscal year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period End	08/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN73

459. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019-015, IMPROVING CONSISTENCY BETWEEN PROCUREMENT & NON-PROCUREMENT PROCEDURES ON SUSPENSION AND DEBARMENT [9000-AN98]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to bring the FAR and the Non-procurement Common Rule (NCR) procedures on suspension and debarment into closer alignment. The FAR covers procurement matters and the NCR covers other transactions, such as grants, cooperative agreements, contracts of assistance, loans and loan guarantees.

The Government uses suspension and debarment procedures to exercise business judgment. These procedures give Federal officials a discretionary means to exclude parties from participation in certain transactions, while affording those parties due process.

Timetable:

Action	Date	FR Cite
NPRM	01/00/23	
NPRM Comment Period End	03/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN98

460. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019-018, FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT OF 2018 [9000-AO01]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to partially implement a section of the Federal Acquisition Supply Chain Security Act of 2018. This law provides executive agency authorities for determining and mitigating supply chain risks in procurements involving controlled unclassified information, information technology, embedded information technology, and telecommunications. The law allows executive agencies to exclude sources or covered articles from any executive agency procurement action, including source selection and consent for a contractor to subcontract.

Timetable:

Action	Date	FR Cite
NPRM	06/00/23	
NPRM Comment Period	08/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO01

461. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-005, EXPLANATIONS TO UNSUCCESSFUL OFFERORS ON CERTAIN ORDERS UNDER TASK AND DELIVERY ORDER CONTRACTS [9000-AO08]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 874 of the NDAA for FY 2020. For awards of certain task or delivery orders, section 874 provides unsuccessful offerors the opportunity to request in writing an explanation as to why their offer was unsuccessful. Contracting offers are required to provide a brief explanation, including the rationale for award and an evaluation of the significant weak or deficient factors in the offeror's offer.

Timetable:

Action	Date	FR Cite
NPRM	04/00/23	
NPRM Comment Period	06/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO08

462. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-008, PROHIBITION ON CRIMINAL HISTORY INQUIRIES BY CONTRACTORS PRIOR TO CONDITIONAL OFFER [9000-AO11]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1123 of the NDAA for FY 2020 (Pub. L. 116-92), which added at 41 U.S.C. 4714 and 10 U.S.C. 2339 prohibitions related to criminal history inquiries on individuals competing for or applying to work on Federal contracts. Per the statute, a contractor may not request criminal history record information on an applicant for a position related to work under a contract before the contractor has extended a conditional offer to the applicant for that position. In addition, the Federal Government may not request criminal history record information on an individual or sole proprietor who is competing on a Federal Government contract, unless that individual is the apparently successful offeror. This proposed rule implements the statutory prohibition and the associated procedures and exceptions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/23	
NPRM Comment Period	07/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO11

463. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-010, SMALL BUSINESS INNOVATION RESEARCH AND TECHNOLOGY TRANSFER PROGRAMS [9000-AO12]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement changes to the U.S. Small Business Administration (SBA) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directive issued (May 2, 2019). The proposed changes include updating FAR 27 to add reference to the STTR program, revise: definitions, allocation of rights, protection period, SBIR/STTR rights notice, data rights marking provisions, and add language to FAR 6.302-5(b) to acknowledge the unique competition requirements for SBIR/STTR Phase III contracts permitted by the Small Business Act.

Timetable:

Action	Date	FR Cite
NPRM	01/00/23	
NPRM Comment Period	03/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO12

464. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-016, REREPRESENTATION OF SIZE AND SOCIOECONOMIC STATUS [9000-AO18]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement statutory requirements as implemented by the Small Business Administration's final rule published October 16, 2020 (85 FR 66146), requiring contractors to rerepresent its size and economic status for all set-aside orders issued under full and open multiple-award contract. Additionally, rerepresentation is required for orders issued under a small business set-aside MAC where the orders are further set aside exclusively for a particular socioeconomic category and the required socioeconomic status differs from the underlying multiple-award contract. Orders issued under any FSS are exempt from the requirement to rerepresent size and or socioeconomic status.

Timetable:

Action	Date	FR Cite
NPRM	02/00/23	
NPRM Comment Period	04/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO18

465. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-001, INCREASED EFFICIENCIES WITH REGARD TO CERTIFIED MAIL, IN-PERSON BUSINESS, MAIL, NOTARIZATION, ORIGINAL DOCUMENTS, SEALS, AND SIGNATURES [9000-AO19]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to increase flexibilities and efficiencies regarding certified mail, in-person business, mail, notarization, original documents, seals, and signatures using digital and virtual technology. This would streamline certain essential contracting procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/23	
NPRM Comment Period	09/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO19

466. FAR ACQUISITION REGULATION (FAR); FAR CASE 2021-005; DISCLOSURE OF BENEFICIAL OWNER IN FEDERAL CONTRACTING [9000-AO23]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement sections 885 and 6403 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. Section 885 requires that the Federal Awardee Performance and Integrity Information System include identifying information on the beneficial owner of a Federal contractor that is a corporation. Paragraph (c) of section 6403 directs the FAR to be changed to require certain offerors to disclose beneficial ownership information in their offers for contracts over the simplified acquisition threshold.

Timetable:

Action	Date	FR Cite
NPRM	09/00/23	
NPRM Comment Period	11/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO23

467. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-009, PROTESTS OF ORDERS SET ASIDE FOR SMALL BUSINESS [9000-AO26]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the requirements in SBA's final rule issued on October 16, 2020 regarding size protests on set-aside orders under multiple-award contracts that were not set-aside; socioeconomic status protests on set-aside orders where the required status differs from that of the underlying multiple-award contract; and the authority for SBA's Associate General Counsel for Procurement Law to initiate size protest.

Timetable:

Action	Date	FR Cite
NPRM	02/00/23	
NPRM Comment Period	04/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO26

468. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-011, PAST PERFORMANCE RATINGS FOR SMALL BUSINESS JOINT VENTURE MEMBERS AND SMALL BUSINESS FIRST-TIER SUBCONTRACTORS [9000-AO28]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the statutory requirements at 15 U.S.C. 644(e)(4)(B)(i) and 15 U.S.C. 644(q)(1)(B) as implemented by the Small Business Administration (SBA) final rule published on October 16, 2020 (85 FR 66146). The statute requires contracting officers to consider the capabilities and past performance of first-tier subcontractors for bundled or consolidated contracts, and to consider the capabilities and past performance of first-tier subcontractors for multiple award contracts valued above the substantial bundling threshold of the Federal agency. SBA's final rule also gives contracting officers discretion to consider past performance and experience of first-tier subcontractors for other procurements where the first-tier subcontractors are specifically identified in the proposal where appropriate.

Additionally this rule will implement section 868 of the National Defense Authorization Act for fiscal year 2021 as implemented in SBA's final rule published on July 22, 2022 (87 FR 43731). Section 868 provided two methods for small businesses to obtain past performance: (1) a small business may use the past performance of a joint venture of which it is a member, provided the small business worked on the joint venture's contract(s), and (2) a small business may use past performance it obtained as a first-tier subcontractor from a prime contractor when specifically identified under a subcontracting plan for the contract. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/23	
NPRM Comment Period	07/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO28

469. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-012, 8(A) PROGRAM [9000-AO29]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the SBA, in its final rule published in the Federal Register on October 16, 2020, to the 8(a) Business Development Program to eliminate or reduce unnecessary or excessive burdens on 8(a) Participants. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	12/15/22	87 FR 76598
NPRM Comment Period End	02/13/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO29

470. FEDERAL ACQUISITIONS REGULATION (FAR); FAR CASE 2021-013, ACCESS TO PAST PERFORMANCE INFORMATION [9000-AO30]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to clarify language at FAR 42.1503(d) regarding restrictions on the release of past performance information in the Contractor Performance Assessment Reporting System (CPARS) to other than Government personnel to perform value added services to the Government. Artificial intelligence (e.g., machine learning) may improve the workforce's ability to leverage the use of contractor performance information in informing future contract award decisions and other related efforts.

Timetable:

Action	Date	FR Cite
NPRM	08/00/23	
NPRM Comment Period	10/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO30

471. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-015, DISCLOSURE OF GREENHOUSE GAS EMISSIONS AND CLIMATE-RELATED FINANCIAL RISK [9000-AO32]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5(b)(i) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(i) directs the FAR Council to consider amending the FAR to require major Federal suppliers to publicly disclose greenhouse gas emissions and climate-related financial risk and to set science-based reduction targets.

Timetable:

Action	Date	FR Cite
NPRM	11/14/22	87 FR 68312
NPRM Comment Period	01/13/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO32

472. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-016, MINIMIZING THE RISK OF CLIMATE CHANGE IN FEDERAL ACQUISITIONS [9000-AO33]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 5(b)(ii) of Executive Order 14030, Climate-Related Financial Risk. Section 5(b)(ii) directs the FAR Council to consider amending the FAR to ensure that major agency procurements minimize the risk of climate change and to require consideration of the social cost of greenhouse gas emissions in procurement decisions for major agency procurements.

Timetable:

Action	Date	FR Cite
ANPRM	10/15/21	86 FR 57404
Comment Period Extended	12/07/21	86 FR 69218
ANPRM Comment Period End	01/13/22	
NPRM	05/00/23	
NPRM Comment Period End	07/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO33

473. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-017, CYBER THREAT AND INCIDENT REPORTING AND INFORMATION SHARING [9000-AO34]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to increase the sharing of information about cyber threats and incident information between the Government and certain providers, pursuant to OMB recommendations, in accordance with section 2 (b)-(c), and

Department of Homeland Security recommendations, in accordance with section 8(b), of Executive Order 14028, Improving the Nation's Cybersecurity. In addition, requires certain contractors to report cyber incidents to the Federal Government to facilitate effective cyber incident response and remediation, pursuant to Department of Homeland Security recommendations in accordance with sections 2(g)(i) of Executive Order 14028.

Timetable:

Action	Date	FR Cite
NPRM	12/00/22	
NPRM Comment Period	02/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO34

474. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-019, STANDARDIZING CYBERSECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION SYSTEMS [9000-AO35]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to standardize common cybersecurity contractual requirements across Federal agencies for unclassified Federal information systems, pursuant to Department of Homeland Security recommendations in accordance with sections 2(i) and 8(b) of Executive Order 14028, Improving the Nation's Cybersecurity. As a result, this rule will ensure Federal information systems are better positioned to protect from cybersecurity threats.

Timetable:

Action	Date	FR Cite
NPRM	12/00/22	

NPRM Comment Period	02/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO35

475. FEDERAL ACQUISITION REGULATIONS (FAR) FAR CASE 2021-020, LIMITATIONS ON SUBCONTRACTING [9000-AO36]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Small Business Administration (SBA) changes to the limitations on subcontracting in SBA's final rules published on May 31, 2016, November 29, 2019, and October 16, 2020, which implemented sections of the National Defense Authorization Acts (NDAA) for Fiscal Years 2016 and 2017, and the Recovery Improvements for Small Entities After Disaster Act of 2015 (RISE Act).

Generally, this rule will clarify matters related to the limitations on subcontracting for small businesses. Changes will be made in areas such as: exclusions of other direct costs from the limitations on subcontracting for services; the application of the limitations on subcontracting to similarly situated entities, the application of the nonmanufacturer rule to kit assemblers; and the application of the limitations on subcontracting to construction contracts that also contain supplies and or services.

Timetable:

Action	Date	FR Cite
NPRM	03/00/23	
NPRM Comment Period	05/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO36

476. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2022-006, SUSTAINABLE PROCUREMENT [9000-AO43]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 14057, Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability, and Office of Management and Budget Memorandum M-22-06, requirements for the procurement of sustainable products and services. This proposed rule will also reorganize FAR part 23 for consistency and clarity, and include statutory updates to definition of "biobased product" (7 U.S.C 8101 and 8102) for the purposes of agency affirmative procurement programs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/23	
NPRM Comment Period	07/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO43

477. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2022-009, CERTIFICATION OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES [9000-AO46]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will amend the Federal Acquisition Regulation (FAR) to implement Small Business Administration (SBA) changes to the certification program for Service-Disabled Veteran-Owned Small Businesses (SDVOSB), as required by section 862 of the National Defense Authorization Act for

Fiscal Year 2021. Section 862 transfers responsibility for SDVOSB certification to the SBA as of January 1, 2023. This rule will clarify the certification requirements for SDVOSBs to be eligible for the award of a sole source or set-aside SDVOSB contract. This rule promotes equity in Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/23	
NPRM Comment Period	06/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO46

478. • FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2023-003, PROHIBITION ON THE USE OF REVERSE AUCTIONS FOR COMPLEX, SPECIALIZED, OR SUBSTANTIAL DESIGN AND CONSTRUCTION SERVICES [9000-AO51]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a proposed rule to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the prohibition on the use of a reverse auction for the award of a contract for complex, specialized, or substantial design and construction services. These prohibitions are the result of Public Law 11728, which amended the Consolidated Appropriations Act, 2020, to correct a provision on the prohibition on the use of a reverse auction. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer.

Timetable:

Action	Date	FR Cite
NPRM	04/00/23	

NPRM Comment Period	06/00/23	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO51

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Final Rule Stage

479. FEDERAL ACQUISITION REGULATION: FAR CASE 2016-005; EFFECTIVE COMMUNICATION BETWEEN GOVERNMENT AND INDUSTRY [9000-AN29]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114-92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/16	81 FR 85914
NPRM Comment Period	03/02/17	
End		

Final Rule	12/01/22	87 FR 73902
Final Rule Effective	12/30/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN29

480. FAR ACQUISITION REGULATION (FAR); FAR CASE 2015-038, REVERSE AUCTION

GUIDANCE [9000-AN31]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, "Effective Use of Reverse Auctions," which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO-14-108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies' use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

Timetable:

Action	Date	FR Cite
NPRM	12/07/20	85 FR 78815
NPRM Comment Period End	02/05/21	
Final Rule	03/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN31

481. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-005, WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES [9000-AN32]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, "Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information," and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for fiscal year (FY) 2013. The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/26/18	83 FR 66223
NPRM Comment Period End	02/25/19	
Final Rule	01/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN32

482. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2017-014, USE OF ACQUISITION 360 TO ENCOURAGE VENDOR FEEDBACK [9000-AN43]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule will create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies will be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End	09/21/18	
NPRM	09/15/20	85 FR 57177
NPRM Comment Period End	11/16/20	
Final Rule	01/00/23	

Regulatory Flexibility Analysis Required: Yes

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483. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-017, PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT [9000-AN83]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement section 889 (a)(1)(A) of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Section 889(a)(1)(A) prohibits the Government from procuring covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. Provisions have been added to the FAR which require that an offeror represent at an entity level in SAM, and if applicable on an offer-by-offer basis, if the offeror will or will not provide any covered telecommunications equipment or services to the Government. If an offeror responds in an offer that it will provide covered telecommunications, the offeror will need to provide additional disclosures. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End	10/15/19	
Interim Final Rule	12/13/19	84 FR 68314
Interim Final Rule Effective	12/13/19	
Interim Final Rule Comment Period End	02/11/20	
Final Rule	04/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN83

484. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019-008, SMALL BUSINESS PROGRAM AMENDMENTS [9000-AN91]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

Timetable:

Action	Date	FR Cite
NPRM	02/24/22	87 FR 10327
NPRM Comment Period End	04/25/22	
Final Rule	01/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN91

485. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019-009, PROHIBITION ON CONTRACTING WITH ENTITIES USING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT [9000-AN92]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115-232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the

Government from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018-017.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/20	85 FR 42665
Interim Final Rule Effective	08/13/20	
Interim Final Rule	08/27/20	85 FR 53126
Interim Final Rule Comment Period End	09/14/20	
Interim Final Rule Comment Period End	10/26/20	
Interim Final Rule Effective	10/26/20	
Final Rule	04/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN92

486. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-007, ACCELERATED PAYMENTS APPLICABLE TO CONTRACTS WITH CERTAIN SMALL BUSINESS CONCERNS [9000-AO10]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to establish an accelerated payment date for small business contractors, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not

established by contract. For contractors that subcontract with small businesses, the rule, to the fullest extent permitted by law, establishes an accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. This change implements section 873 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92). Section 873 amends 31 U.S.C. 3903(a). For DoD, however, this rule implements section 815 of the William M. (Mac) Thornberry NDAA for FY 2021, which amended 10 U.S.C. 2307(a)(2)(A) (now found at 10 U.S.C. 3801) by striking the language if a specific payment date is not established by contract.” Accordingly, the final rule excludes from DoD contracts the condition reflected in the language a specific payment date is not established by contract.”

Timetable:

Action	Date	FR Cite
NPRM	09/29/21	86 FR 53923
NPRM Comment Period End	11/29/21	
Final Rule	12/00/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO10

487. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-011, IMPLEMENTATION OF FASC EXCLUSION ORDERS [9000-AO13]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: This rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion orders authorized by section 202 of the SECURE Technology Act (115 Pub. L. 390), which amends 41 U.S.C. 1323 by creating the Federal Acquisition Security Council (FASC) and authorizing the Secretary of Homeland Security, the Secretary of Defense, and the Director of National Intelligence to issue exclusion orders, upon the recommendation of the FASC. These orders are issued to

protect national security by excluding certain covered products, services, or sources from the Federal supply chain.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/22	
Interim Final Rule	02/00/23	
Comment Period End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO13

488. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-014, INCREASING THE MINIMUM WAGE FOR CONTRACTORS [9000-AO31]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will finalize an interim rule which amended the Federal Acquisition Regulation (FAR) to implement Executive Order 14026, Increasing the Minimum Wage for Federal Contractors, dated April 27, 2021, and Department of Labor regulations (29 CFR part 23). The Executive order seeks to increase efficiency and cost savings in the work performed by parties who contract with the Federal Government by increasing to \$15.00 the hourly minimum wage paid to those contractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/26/22	87 FR 4117
Interim Final Rule	03/28/22	
Comment Period End		
Final Rule	07/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO31

489. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2022-003, USE OF PROJECT LABOR AGREEMENT FOR FEDERAL CONSTRUCTION PROJECTS [9000-AO40]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement Executive Order 14063 on the use of project labor agreements in connection with large-scale construction projects to promote economy and efficiency in Federal procurement. The rule will require the use of project labor agreements for large-scale construction projects with a total estimated value of \$35 million or more. The rule will continue to provide discretionary use of a project labor agreement on construction projects that do not meet the definition of large-scale construction projects.

Timetable:

Action	Date	FR Cite
NPRM	08/19/22	87 FR 51044
NPRM Comment Period End	10/18/22	
Final Rule	03/00/23	

Regulatory Flexibility Analysis Required: Yes

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490. • FEDERAL ACQUISITION REGULATION (FAR): FAR CASE 2022-011, NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS [9000-AO48]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA will amend the Federal Acquisition Regulation (FAR) to implement Executive Order 14055, Nondisplacement of Qualified Workers Under Service Contracts, dated November 18, 2021 and Department of Labor regulations (29 CFR part 9). The Executive Order establishes a general policy of the Federal Government that service contracts which succeed contracts for the same or similar services, and solicitations for such contracts, shall include a non-displacement clause. The non-displacement clause requires the contractor and its subcontractors to offer qualified employees employed under the predecessor contract a right of first refusal of employment under the successor contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/23	
Interim Final Rule Comment Period End	06/00/23	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO48

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Long-Term Actions

**491. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-006; DEFINITION OF
SUBCONTRACT [9000-AN66]**

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820

amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

Timetable:

Action	Date	FR Cite
NPRM	12/00/23	
NPRM Comment Period	02/00/24	
End		

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN66

492. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-013, EXEMPTION OF COMMERCIAL AND COTS ITEM CONTRACTS FROM CERTAIN LAWS AND REGULATIONS [9000-AN72]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 839 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. Section 839 requires a review of each existing determination to not exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempted under 41 U.S.C. 1906(d) or 1907(b), and a new determination whether to provide exemptions for those products, services, or items and revisions to the FAR, as necessary. This rule will also assess every FAR regulation that does not originate from a law or Executive Order, but establishes a clause to be used in contracts for commercial products or commercial services, and eliminate those regulations, unless a new determination is made not to do so. The rule will also assess each FAR regulation that requires a contractor to include a specific clause in subcontracts for COTS items, unless such inclusion is required by law or Executive Order. As a

result this rule attempts to streamline the application of rules and requirements to commercial acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/23	
NPRM Comment Period End	02/00/24	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN72

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)	Completed Actions

493. FEDERAL REGULATION ACQUISITION (FAR); FAR CASE 2017-019, POLICY ON JOINT VENTURES [9000-AN59]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture's eligibility to compete for an 8(a) competitive procurement.

Completed:

Reason	Date	FR Cite
Final Rule	09/23/22	87 FR 58219
Final Rule Effective	10/28/22	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Malissa Jones

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RIN: 9000-AN59

494. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2018-020, CONSTRUCTION CONTRACT ADMINISTRATION [9000-AN78]**Legal Authority:** 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 855 of the NDAA for FY 2019 (Pub. L. 115-232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.

Completed:

Reason	Date	FR Cite
Final Rule	09/23/22	87 FR 08227
Final Rule Effective	10/28/22	

Regulatory Flexibility Analysis Required: Yes**Agency Contact:** Dana L. Bowman

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RIN: 9000-AN78

495. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2019-007, UPDATE OF HISTORICALLY UNDERUTILIZED BUSINESS ZONE PROGRAM [9000-AN90]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement regulatory changes issued in a final rule on November 26, 2019, by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program. This rule promotes equity in Federal procurement.

Completed:

Reason	Date	FR Cite
Final Rule	09/23/22	87 FR 58232
Final Rule Effective	10/28/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AN90

496. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2020-013, CERTIFICATION OF WOMEN-OWNED SMALL BUSINESSES [9000-AO17]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: The purpose of this FAR case is to implement the statutory requirement for certification of women-owned and economically disadvantaged women-owned small businesses participating in the Women-Owned Small Business Program (section 825 of the National Defense Authorization Act for Fiscal Year 2015), as implemented by the Small Business Administration in its final rule published May 11, 2020. This rule promotes equity in Federal procurement.

Completed:

Reason	Date	FR Cite
Final Rule	09/23/22	87 FR 58237
Final Rule Effective	10/28/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO17

497. FEDERAL ACQUISITION REGULATION (FAR); FAR CASE 2021-008, AMENDMENTS TO THE FAR BUY AMERICAN ACT REQUIREMENTS [9000-AO22]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 8 of Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers. Section 8 requires the Federal Acquisition Regulatory Council to strengthen the impact of the Buy American Act. In pursuit of the goals of section 8, the final rule would provide for 1) an increase to the domestic content threshold, a schedule for future increases, and a fallback threshold that would allow for products meeting a specific lower domestic content threshold to qualify as domestic products under certain circumstances; and 2) a framework for application of an enhanced price preference for a domestic product that is considered a critical item or made up of critical components.

Completed:

Reason	Date	FR Cite
Final Rule Correction	10/18/22	87 FR 62999
Final Rule Effective	10/25/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO22

498. FEDERAL ACQUISITION REGULATIONS (FAR); FAR CASE 2021-010, SUBCONTRACTING TO PUERTO RICAN AND OTHER SMALL BUSINESSES [9000-AO27]

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 861 of the National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), as implemented by the Small Business Administration's final rule published October 16, 2020 (85 FR

66146). Section 861 of the NDAA for FY 2019 provides contracting incentives to mentors that subcontract to protege firms that are Puerto Rican businesses. Specifically, a mentor that provides a subcontract to a protégé that has its principal office located in the Commonwealth of Puerto Rico may receive positive consideration for the mentor's past performance evaluation, and apply costs incurred for providing training to such protege toward the subcontracting goals contained in the subcontracting plan of the mentor. This FAR case also implements SBA's final rule which added clarifying language to recognize that prime contractors may rely on the self-certifications of their subcontractors provided they do not have a reason to doubt any specific self-certification. Lastly, this FAR case implements changes to SBA's regulations at 13 CFR 125.3(b)(2) which clarify that an Alaska Native Corporation (ANC) owned firm that does not individually qualify as small but counts as a small business or a small disadvantaged business for subcontracting goaling purposes under 43 U.S.C. 1626(e)(4)(B) is not currently required to submit a subcontracting plan. This rule promotes equity in Federal procurement.

Completed:

Reason	Date	FR Cite
Withdrawn	10/27/22	

Regulatory Flexibility Analysis Required: Yes

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RIN: 9000-AO27

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